

## **REMARKS**

An Office Action was mailed on December 30, 2003. Claims 1 - 14 are pending in the present application. With this response, Applicant amends claims 1, 4 and 7 - 14. No new matter is introduced. Support for the amendments may be found, for example, at page 18, lines 4 - 18 of Applicants' specification.

### **REJECTION UNDER 35 U.S.C. § 101**

Claim 13 is rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter (a computer program). Applicants amend claim 13 to instead recite a "computer program product to be executed by a computer providing sound control". Applicants respectfully submit that amended claim 13 recites statutory subject matter, and respectfully request that this rejection be withdrawn.

### **REJECTION UNDER 35 U.S.C. § 112**

Claims 7 - 9 are rejected under the second and fourth paragraphs of 35 U.S.C. § 112 as being indefinite and failing to further limit the claimed subject matter of associated base claims. The rejections stem from a claim format used in claims 7 - 9 in which apparatus is defined in terms of method steps. Applicants amend claims 7 - 9 to recite a "program execution apparatus storing a sound control program to be executed by [the] apparatus" in order to provide sound control for a plurality of channels. Amended claims 7 - 9 require the sound control program to include various program code means. Applicants respectfully submit that the metes and bounds of amended claims 7 - 9 are both ascertainable and definite, and respectfully request that this rejection be withdrawn.

## REJECTION UNDER 35 U.S.C. § 102

Claims 1 – 14 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,425,827 to Nimura. Applicants amend claims 1, 4, 7, 10, 13 and 14 to further clarify the nature of their invention, and respectfully traverse this rejection.

- Applicants disclose an entertainment system having a sound processor unit that
- includes a sequencer 50 for sequencing a plurality of sound channels 56, each having a volume controller 57 for controlling volume control of the channel outputs. Each of the outputs is fed to a D/A converter 52 for creating an analog output signal from the plurality of channel outputs (see, e.g., Applicants' FIG. 3). In this manner, components of output signal can be situationally adjusted (see, e.g., FIG. 4). Specifically, volume levels for each of the plurality of channels are controlled according to a location of a game character on displayed image for the entertainment system (see, e.g., page 18, lines 4 – 18 of Applicants' specification).

Nimura discloses a sound generation means for a game system in which pitch, volume and tone can be adjusted for each of a plurality of sound channels (see, e.g., abstract and FIGs. 3, 4 of Nimura). Nimura indicates that adjustments may be made according to a character strength, or according to a time of play or a stage of play (see, e.g., column 7, lines 21 – 33 and 42 – 45, and column 8, lines 48 – 52 of Nimura). However, unlike Applicants' claimed invention, Nimura fails to disclose or suggest controlling a volume of one or more channels according to a location of a game character on the displayed image.

Accordingly, Applicants respectfully submit that independent claims 1, 4, 7, 10, 13 and 14 are not anticipated by Nimura, and are therefore allowable. As claims 2, 3, 5,

6, 8, 9, 11 and 12 each depend from one of allowable claims 1 4, 7, and 10, Applicants further submit that claims 2, 3, 5, 6, 8, 9, 11 and 12 are allowable for at least this reason.

### CONCLUSION

An earnest effort has been made to be fully responsive to the Examiner's objections. In view of the above amendments and remarks, it is believed that claims 1-14, consisting of independent claims 1, 4, 7, 10, 13 and 14, and the claims dependent therefrom, are in condition for allowance. Passage of this case to allowance is earnestly solicited. However, if for any reason the Examiner should consider this application not to be in condition for allowance, he or she is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged on Deposit Account 50-1290.

Respectfully submitted,



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